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January 4, 2001

Ms. Gloria Blue  
Executive Secretary  
Trade Policy Staff Committee  
Office of the United States Trade Representative.  
600 17<sup>th</sup> Street, N.W.  
Washington, D.C. 20508

**Re: Comments in Connection with Inv. No. TA-201-73 (Certain Steel Products)**

Dear Madam Secretary:

On behalf of the European Steel Tube Association and on behalf of a member company of ESTA's German Member Association, Mannesmann Präzisrohr GmbH of Germany (MHP), enclosed please find comments regarding the actions that President should take on connection with the above-referenced investigation. These comments are filed pursuant to the United States Trade Representative's October 26, and December 28, 2001 Notices in the Federal Register (66 Fed. Reg. 54321 and 66 Fed. Reg. 67349, respectively). Please do not hesitate to contact us if you have any questions regarding this submission

Respectfully submitted,  
BARNES, RICHARDSON & COLBURN

By: Matthew T. McGrath  
Matthew T. McGrath  
Counsel to ESTA and MHP

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**BEFORE THE  
TRADE POLICY STAFF COMMITTEE  
OFFICE OF THE  
UNITED STATES TRADE REPRESENTATIVE  
EXECUTIVE OFFICE OF THE PRESIDENT**

In the Matter of Review of the	)
Investigation of	)
<b>Certain Steel Products</b>	)
	)

Investigation No. TA-201-73

**COMMENTS  
of  
THE EUROPEAN STEEL TUBE ASSOCIATION  
AND  
MHP**

**EXECUTIVE SUMMARY**

ESTA and Mannesmann Präzisrohr GmbH of Germany (MHP) believe that any action taken by the President with regard to welded tubular products other than OCTG (covered by product groupings in the ITC's Category 20) should exclude the following:

- 1) Welded Tubing for Automotive Fuel Pumps: Cold drawn - DOM - tubing type 5, including delivery conditions according to ASTM A-513-97, steel grade MT 1010 with special conditions/requirements and surface conditions. Dimensions according to customer specifications. This product is classified under HTSUS 7306.30.50.15.
- 2) Welded Cold Drawn Profile Tubing: Description and technical conditions for cold drawn profiles according to DIN 2393-C, 09,94. This product is classified under HTSUS numbers 7306.60.10.00, 7306.60.50.00, and 7306.60.30.00.

## I. OVERVIEW

These comments on the actions that the President should take in the above-referenced investigation are filed pursuant to the notice published by United States Trade Representative (“USTR”) on October 26, 2001, on behalf of the European Steel Tube Association (“ESTA”) and on behalf of a member company of ESTA’s German Member Association, Mannesmann Präzisionsrohr GmbH of Germany (MHP). ESTA and MHP believe that any action taken by the President with regard to welded tubular products other than OCTG (covered by product groupings in the ITC’s Category 20) should exclude “tubing for automotive fuel pumps” and “welded cold drawn profile tubing, specialty shaped profile tubes for PTO drive-shafts.” This exclusion request was first made in the injury phase of the United States International Trade Commission’s investigation on September 10, 2001. ESTA and MHP subsequently made the same exclusion request to USTR on November 13, 2001. Despite numerous opportunities to object, ESTA and MHP are unaware of any objection being filed by any party with regard to this exclusion request. Given the lack of interest by domestic industry, exclusion of such products is warranted by the statute and the WTO Safeguards Agreement.

While the Commission did recommend specific exclusions for line pipe in their Category 20 (welded carbon and alloy pipe, other than oil country tubular goods), the majority of the Commissioners in this case have left the decision on any other exclusions to USTR. The plurality of the Commission noted in their opinion that USTR has separately requested and will evaluate exclusion requests and that the President may find a basis for exclusions through the USTR process. Likewise, Commissioner Bragg did not

elaborate on the lack of product exclusions in her recommendation, except to note that USTR has established a mechanism to deal with this issue. Therefore, MHP submits that these specialty products should be excluded.

## II. THE PRESIDENT’S OBLIGATIONS IN CRAFTING A REMEDY

### A. Exclusion of These Products is Supported by the Statute and the WTO Agreement on Safeguards

In establishing a remedy, the statute requires that the President take all “appropriate and feasible action within his power which the President determines will facilitate efforts by the domestic industry to make a positive adjustment to import competition and provide greater economic benefits than costs.”<sup>1</sup> In making its recommendation, the President is limited by section 2253(e) to actions in which the “cumulative impact of such action does not exceed the amount necessary to prevent or remedy the serious injury.”<sup>2</sup> These limitations are reflective of the WTO Agreement on Safeguards which explicitly provides that a member may “apply safeguard measures only to the extent necessary to prevent or remedy serious injury and to facilitate adjustment.”<sup>3</sup>

In determining what action to take, the President is required to take into account the short- and long-term economic and social costs of the actions...relative to their short- and long-term economic and social benefits....<sup>4</sup> The President must also consider the “effect of the implementation of actions under this section on consumers and on competition in domestic markets for articles.”<sup>5</sup>

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<sup>1</sup> 19 U.S.C. §2253(a)(1)(A).

<sup>2</sup> 19 U.S.C. § 2253(e)(2).

<sup>3</sup> Agreement on Safeguards, Article 4(1).

<sup>4</sup> 19 U.S.C. §2253(a)(1)(E).

<sup>5</sup> 19 U.S.C. §2253(2)(F)(ii).

Therefore, any remedy must be crafted to the absolute minimum amount of relief necessary to prevent injury or to facilitate positive adjustment. The remedy must not provide greater economic and social benefits than costs. The remedy must take into account the effect of the remedy on domestic consumers and on competition in domestic markets.

B. Exclusion of These Products is Warranted

The inclusion of such products, not made in the United States, would exceed the minimum amount of relief necessary to prevent injury and would not serve to facilitate the adjustment of the domestic industry. The inclusion of “tubing for automotive fuel pumps” and “welded cold drawn profile tubing, specialty shaped profile tubes for PTO drive-shafts” would have a negative impact on domestic consumers without providing any benefit to the domestic welded tubular industry.

To MHP’s knowledge, “welded tubing for automotive fuel pumps” is not produced in the United States or at best is made in limited quantities. MHP is unaware of any substitute products available from domestic producers. The product requires special machinery and expertise to produce the very close tolerances required by the automotive industry. Furthermore, this product is a necessary article for the manufacture of automotive fuel pumps and has no applications outside that use; there should be therefore no concerns about product shifting should this exclusion be granted.

With regard to “welded cold drawn profile tubing,” the product is not made in the United States and there are no substitute products available from domestic producers. The product requires special machinery and expertise to produce, including special draw benches and drawing tools (star profiles) with closest tolerances and highest straightness.

Furthermore, the product is a necessary article for the manufacture of PTO drive-shafts and has no applications outside that use.

Any safeguard relief that included such products, would be excessive and would cause substantial economic harm to U.S. purchasers, consumers, and workers without providing any benefit to domestic producers. MHP's customers depend on the unrestricted availability of this tube. In making its exclusion determinations, the Administration needs to consider not only the state of the domestic industry, but also the effect of any remedy on the U.S. customers or pipe and tube products.

### III. CONCLUSION

Given the apparent lack of interest by the domestic industry and for the reasons stated above, ESTA and MHP request that the Commission exclude "tubing for automotive fuel pumps" and "welded cold drawn profile tubing, specialty shaped profile tubes for PTO drive-shafts" from any remedy imposed in this investigation.

Respectfully submitted,

By: Matthew T. McGrath  
BARNES, RICHARDSON & COLBURN

Matthew T. McGrath  
Stephen Brophy

Counsel to  
European Steel Tube Association  
And MHP

Date: January 4, 2001

## **ATTACHMENT A**



GESAMT SEITE 10

ST N RA J B 00000 00000 D 00000 000 TXNR T 017A1028  
 ZEILE .....1.....2.....3.....4.....5.....6.....7...  
 00001F COLD DRAWN (DOM) TUBING (TYPE 5), ASTM A 513-97, MT 1010,  
 00002F NORMALIZED AT 930 DEGREE C +/- 30 DEGREE C, ENDS PLAIN, UNMACHINED,  
 00003F WORK'S CERTIFICATE 2.2 ACC. TO EN 10204:1991 + A1:1995,  
 00004F INTERNALLY AND EXTERNALLY WITH TEMPORARY RUST PROTECTION GROUP 0,  
 00005F EXTERNAL SURFACE ACC. TO DIN 2393-2, 09.94, POINT 0,  
 00006F SURFACE:  
 00007F ID: DEFECTS OF WHATEVER TYPE ARE TO BE MAXIMUM 20 MY OR .0008"  
 00008F OD: DRAW MARKS GREATER THAN 20 MY OR .0008" ARE NOT ACCEPTABLE,  
 00009F SCRATCHES ORIGINATING FROM HANDLING AND SLIGHT CIRCULAR IMPRESSIONS  
 00010F ARE TO BE MAX. 50 MY OR .002" AS PER DRAWING F-27001 PARA.4  
 00011F EDDY-CURRENT TESTED ACC. TO PRP 02/74,  
 00012F US-TEST ACC. TO SEP 1915/09.94,  
 00013F IN LENGTHS OF 4.000 - 5.000 MM  
 00014F PACKED IN SEAWORTHY BOXES, BUNDLED,

FCODE AZ ZEILE \_ \_ ANZAHL \_ SPALTE \_ \_

SI \_ PF: 3=Back

11-12126

**See above:**

**Specification for fuel pumps (cold drawn -DOM- tubing type 5) including delivery conditions acc. to ASTM A 513-97, steel grade MT 1010 with special conditions / requirements and surface conditions**

**Dimensions for our customer Greystone: 38 mm x 33,52 mm and 57,15 mm x 47,625 mm (outside x inside diameter). Other sizes for fuel pumps are based on different end user designs.**

10 NELLE 14830  
 (EAL - 0120450)

ST N RA J B 00000 00000 D 00000 000 TXNR T 018DD0F7  
 ZEILE .....1.....2.....3.....4.....5.....6.....7..  
 00001F STEEL TUBE PROFILES ACC. TO DRAWING, ELECTRICALLY WELDED,  
 00002F DIN 2393-C, 09.94,  
 00003F PROVISION OF DELIVERY AND TESTING 000, SHEET 1 - 13,  
 00004F INDEX "J", 25.09.1996, ST 52-3, MICRO-ALLOYED,  
 00005F UNANNEALED, ENDS PLAIN, UNMACHINED,  
 00006F WORK'S CERTIFICATE 2.2 ACC. TO EN 10204:1991 + A1:1995,  
 00007F INTERNALLY AND EXTERNALLY LIGHTLY OILED (GROUP 0),  
 00008F IN RANDOM LENGTHS OF 6 - 7 M,  
 00009F OVER THE ENTIRE BUNDLE LENGTH LINED WITH PLASTIC FABRIC,  
 00010F FRONT FACES ALSO COVERED, IN BUNDLES OF 20 PIECES,  
 00011F TOLERANCE IN QUANTITY + 10/- 10 %  
 00012F  
 00013F DRAWING NO. 75.45 INDEX H DTD. 13.08.96  
 00014F .

FCODE AZ ZEILE \_ - \_ ANZAHL \_ SPALTE \_ - \_

SI \_ PF: 3=Back

11-12126

**See above:**

**Description and technical conditions for cold drawn profiles acc. to DIN 2393-C, 09.94**

**Attached: 2 drawings of our customer GKN Walterscheidt Inc, Burr Ridge, IL with delivery and testing instructions.**

Liefer- und Prüf-  
vorschrift  
Delivery and testing  
Instructions

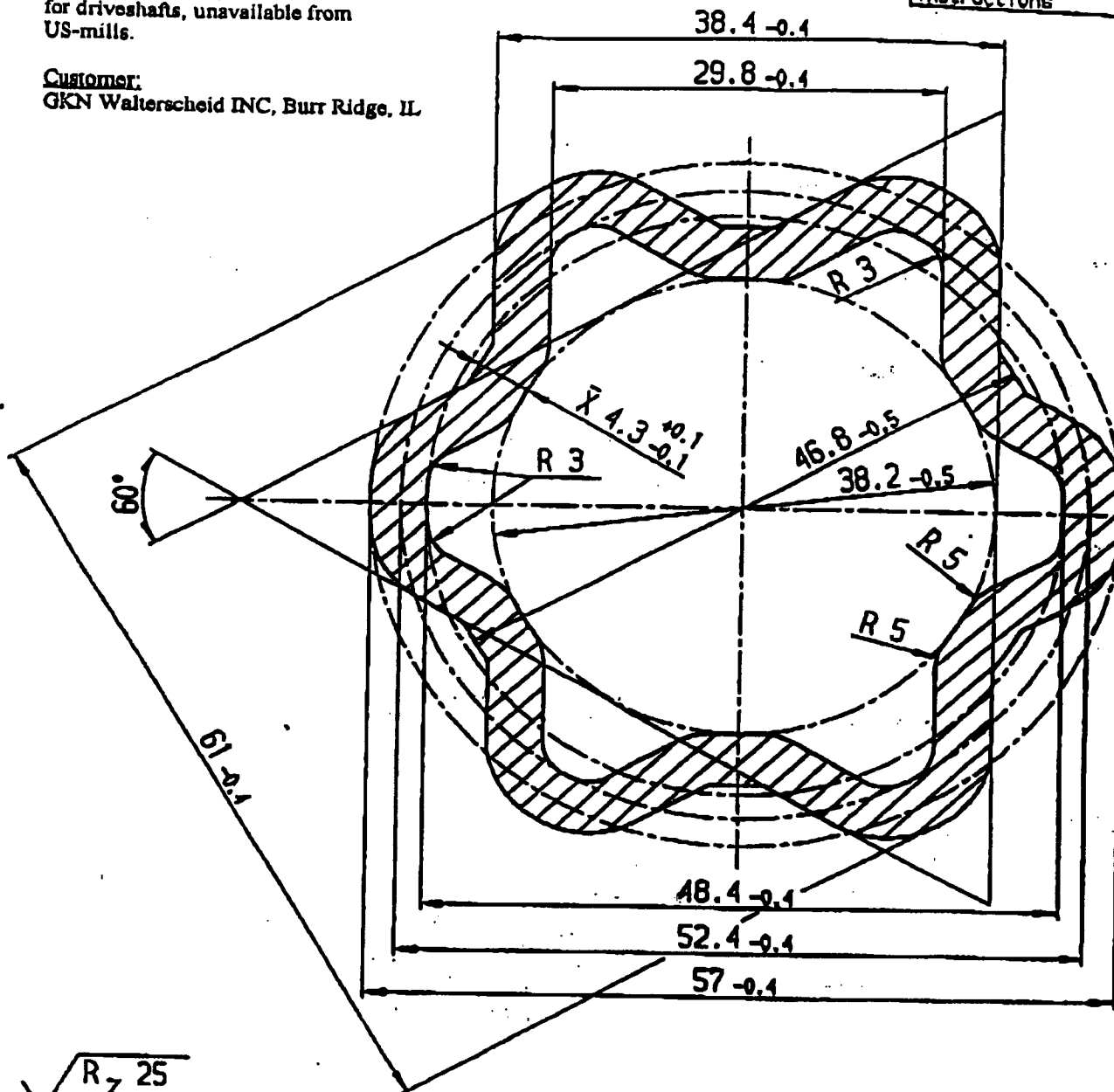
01

**Profile tubing**  
Speciality shaped profile tubes  
for driveshafts, unavailable from  
US-mills.

**Customer:**  
GKN Walterscheid INC, Burr Ridge, IL

This drawing is our property. It may only be used for the entrusted purpose  
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ing imitations sets forth grounds for compensation for damage.

5. Sep. 90



√ R<sub>Z</sub> 25

CAD - Zeichnung

Verteiler:  
Routing List.Freispartelanz:  
General tolerance.Maßstab:  
Scale:Form:  
Form:Dimensionen in mm  
Dimensions in mm

Änderungs-Nr.	Änderungs-Nr.	Änderungs-Nr.	Änderungs-Nr.	Änderungs-Nr.	Änderungs-Nr.
0196 88	27.06.88	Boelter	X		

Gezeichnet	Datum	Gezeichnet
Boelter	27.06.88	Holland
Geprüft		
Freigegeben		

Material:  
R St 52-3 BK  
mikrolegiert  
microalloyed

Halbzeug-Nr.:  
Blank-No.:

Profil S5  
Profile

**WALTERSCHEID**

Lohmar/Rheinland  
West Germany

Zeichnungs-Nr.:  
Drawing-No.: 75.45  
Klassifizierungs-Nr.:  
Classification-No.:

Teil-Nr.:  
Part-No.:

044255

Änderungs-Nr.	Änderungs-Nr.	Änderungs-Nr.	Änderungs-Nr.	Änderungs-Nr.	Änderungs-Nr.
0196 88	27.06.88	Boelter	X		

Ursprung / Origin:

Ersatz für/Replacement for:  
75.45 vom 15.05.72

Ersetzt durch / Replaced by:

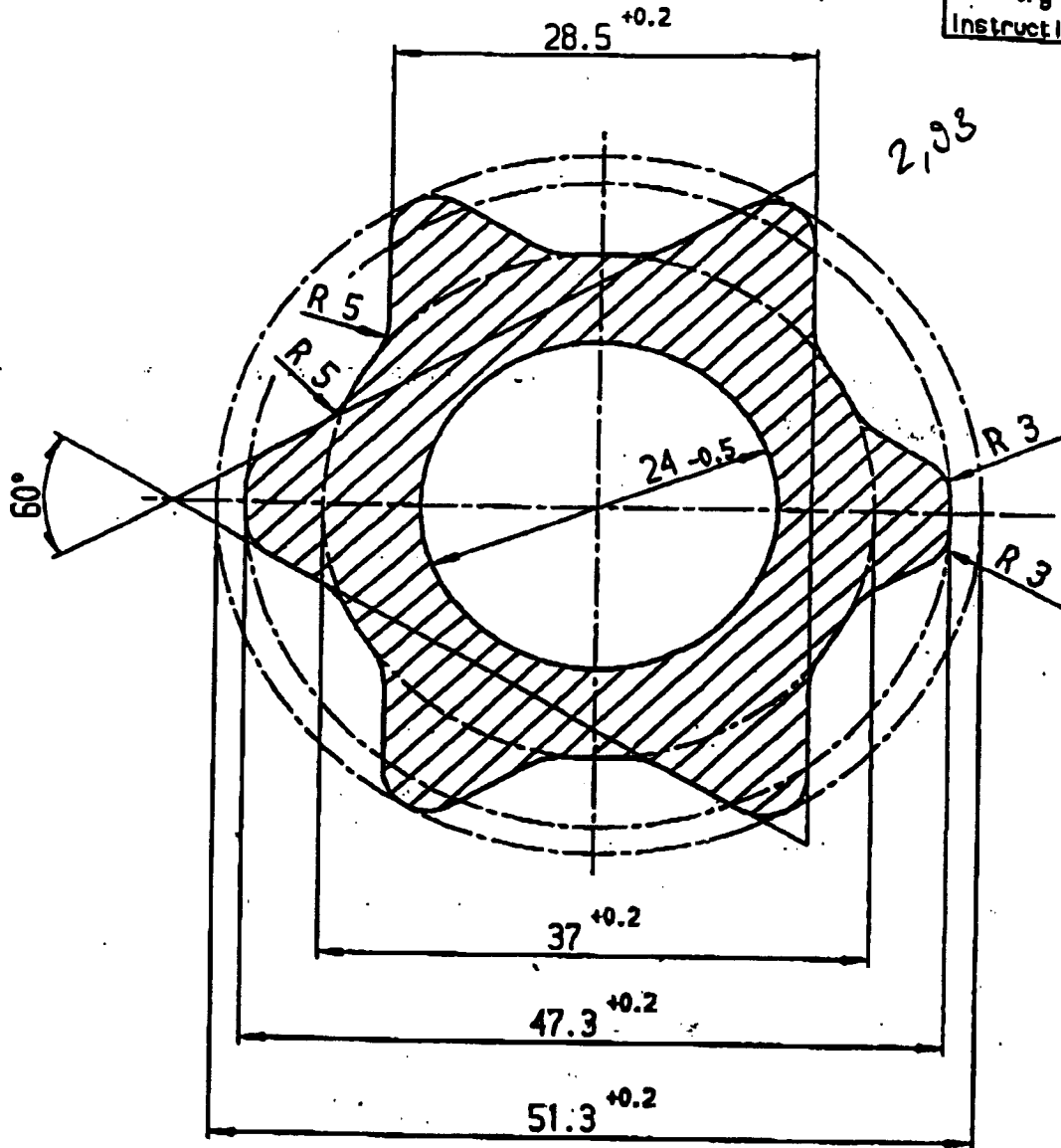
1014255

75.45

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5 Sep. 90



① Liefer- und Prüf-  
vorschrift  
Delivery and testing  
Instructions

01

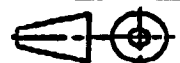
CAD - Zeichnung

Verteiler:  
Routing List.Freigehtoleranz:  
General tolerances.Maßstab:  
Scale:

2:1

Format:  
Format:

A4

Dimensionen in mm  
Dimensions in mmWerkstoff:  
Material:C 60 BK  
680 - 850 N/mm<sup>2</sup>Holzung-Nr.:  
Blank-No.:Bezeichnung:  
Designation:Profil S4  
ProfileZeichnungs-Nr.:  
Drawing-No.:

75.44

Klassifizierungs-Nr.:  
Classification-No.:Teil-Nr.:  
Part-No.:

044126

Buchst.  
LetterÄnderungs-Nr.  
Change-No.Datum  
DateName  
Name

Film

Ursprung / Origin:

Ersatz für/Replaces for:

75.44 vom 14.07.72

Ersetzt durch / Replaced by:

10 1126

15:44

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Buchst. Letter	Änderungs-Nr. Change-No.	Datum Date	Name Name	Film
①	0865 77	17.11.77	Heinz	X
②	0019 76	12.01.76	Holla	X

**WALTERSCHEID**  
Lohmar/Rheinland  
West Germany